

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

IN RE:)
)
THERESA A. GASCOIGNE) Case No. 10-16159-BFK
) Chapter 7
Debtor)

**TRUSTEE'S MOTION TO SELL PERSONAL PROPERTY
AND TO COMPENSATE SALES AGENT**

COMES NOW Gordon P. Peyton, the duly appointed and acting Trustee in this Chapter 7 proceeding, by Counsel, and for his Motion to sell personal property of this estate respectfully represents to this Honorable Court as follows:

1. The Debtor filed an original petition herein on July 22, 2010, and Gordon P. Peyton was properly appointed as Interim Trustee and does currently serve as Trustee.
2. Your Trustee determined that the following personal property is the sole property of the Debtor and should be liquidated for the benefit of the creditors of this estate: a 1989 Blue Bird Motor Home ("the Motor Home").
3. On November 9, 2011, the Trustee filed a Motion to Sell said personal property via internet auction. The Motion was approved by this Court's Order dated December 9, 2010. It came to the Trustee's attention during the course of the internet auction, however, that due to various obstacles, a free and clear title could not be obtained from the DMV. Due to these complications, which would have prevented the Trustee's ability to provide clear title to the Motor Home to the high bidder, the auction was stopped prior to its scheduled conclusion.
4. On May 26, 2011, after the Debtor was eventually able to acquire a free and clear title to the Motor Home, the Trustee filed his second Motion to Sell the Motor Home. Responses

were filed by both the United States of America and Fairfax County, Virginia, indicating that the Motor Home was, in fact, subject to tax liens. A response was filed by the Debtor noting that the Debtor had claimed a \$5,000.00 homestead exemption in the Motor Home and requested that this claim of exemption be honored before the distribution of any sales proceeds to any of her creditors.

An Order was entered on June 23, 2011, granting the Trustee's Motion for Sale, with the disposition of the proceeds and the priority of the pending tax liens and Debtor's homestead exemption to be determined at the time of the Trustee's Final Report ("the Second Order for Sale").

5. Both prior to the filing of the bankruptcy, and throughout the course of the aforementioned events, the Motor Home had been stored at the home of an acquaintance of the Debtor's, a Mr. Wayne Moore ("Mr. Moore") at the rate of \$100.00 per month (an amount which the Debtor and Mr. Moore had verbally agreed upon prior to the bankruptcy). Mr. Moore had expressed concern about being paid for storing the vehicle, but the Trustee's Sales Agent, N. T. Arrington ("Mr. Arrington"), informed him that the Trustee would seek approval from the Court to reimburse him for the post-petition storage upon a sale of the vehicle. This appeared satisfactory to Mr. Moore.

6. After the entry of the Second Order for Sale, Mr. Arrington contacted Mr. Moore to arrange a visit to take current pictures of the Motor Home for inclusion in the new internet auction. He learned at that time that the Motor Home had been moved to a different storage location, the owner of which was now charging \$50.00 per day to store the vehicle. Mr. Arrington was presented with an invoice indicating a total post-petition storage bill (which also included a towing fee and plumbing repair) for \$6,700.00, which included the amount owed to Mr. Moore and to the new holder of the Motor Home, and was informed that the proprietor would not release the Motor Home unless paid in full for his "storage lien". Mr. Arrington also learned that the proprietor had

taken and was currently taking steps to sell the Motor Home at an upcoming storage lien auction.

7. When the Motor Home was first examined by Mr. Arrington in approximately September, 2010, Mr. Arrington estimated that it could sell at auction for approximately \$12,000.00. At the current time, however, given the passage of time, the fact that the Motor Home has not been driven for several years (which includes a pre-petition period), the fact that the substantial and costly tires now all needed to be replaced, and the general decline in sales of items such as the Motor Home, Mr. Arrington's opinion is that the home would likely bring under \$7,000.00 at auction.

8. Mr. Moore, who had originally stored the Motor Home, has made an offer to purchase the Motor Home for the amount of \$4,000.00, free and clear of the tax liens of the United States of America and Fairfax County, Virginia, but subject to any storage lien(s) asserted by the owner of the lot upon which the Motor Home is currently stored (an acquaintance of Mr. Moore's)

9. Given the costs of the litigation which the Trustee would have to pursue in order to effectuate an eventual turnover of the Motor Home, taken in conjunction with the current auction value of the property, the Trustee believes it to be in the best interest of the creditors to accept Mr. Moore's offer of \$4,000.00.

10. From the gross proceeds of \$4,000.00, the Trustee requests the Court's permission to pay Mr. Arrington the amount of \$400.00, or 10% of the gross proceeds, and no costs, and that Mr. Arrington be paid directly from the proceeds of the sale, with the auction proceeds and commission information to be filed with this Court along with the Trustee's subsequent Report of Sale.

12. The Trustee further requests that his commission be paid in accordance with the guidelines set forth in 11 U.S.C. §326(a), upon further Order of this Court.

13. The expenses of this sale and all administrative expenses including fees of your

Trustee and his retained professionals should be allowed pursuant to 11 U.S.C. 503, as actual, necessary costs and expenses of preserving this estate.

WHEREFORE, your Trustee prays that he be authorized to proceed with the sale of the Motor Home directly to Mr. Moore for the amount of \$4,000.00, subject to any potential storage liens thereon, but free and clear of any tax liens of the United States of America and of Fairfax County, with the said tax liens to attach to the proceeds of sale.

October 14, 2011

Respectfully submitted,

/s/ Elizabeth K. Lynch
Elizabeth K. Lynch, VSB #33407
Counsel to the Trustee
510 King Street, Suite 301
Alexandria, VA 22314
(703) 684-2000

CERTIFICATE OF SERVICE

I, Elizabeth K. Lynch, do hereby certify that a true and correct copy of the foregoing Motion to Sell Personal Property and to Compensate Auctioneer was sent this 14th day of October, 2011, via either ECF or first class mail, postage prepaid, to all creditors and other parties in interest as maintained on the mailing matrix attached hereto (service list attached only to the original of the Motion filed with the Court).

/s/ Elizabeth K. Lynch
Elizabeth K. Lynch

Label Matrix for local noticing

0422-1

Case 10-16159-BFK

Eastern District of Virginia

Alexandria

Fri Oct 14 12:21:52 EDT 2011

N T Arrington

Asset Acceptance LLC assignee
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The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

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(u)United States of America

End of Label Matrix	
Mailable recipients	41
Bypassed recipients	2
Total	43